

**2026 LiveLaw (SC) 161**

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**DIPANKAR DATTA; J., SATISH CHANDRA SHARMA; J.**

**SPECIAL LEAVE PETITION (C) DIARY NO. 54941/2025; February 09, 2026**

**STATE OF ODISHA & ORS.**

*versus*

**MANAGING COMMITTEE OF NAMATARA GIRLS HIGH SCHOOL**

**Limitation Act, 1963; Section 5 — Condonation of Delay — State/Government Litigants — The Supreme Court dismissed a Special Leave Petition filed by the State of Odisha, refusing to condone a delay of 123 days in filing and 96 days in re-filing – Held that while a liberal approach and certain latitude ("play at the joints") are traditionally extended to the State due to procedural red tape, there is a limit to such indulgence – Noted that the State's explanation—citing "procedural delay in obtaining approval from the higher authority"—as a "lame excuse" rather than a "sufficient cause." – Noted that condonation of delay is not a matter of right but a discretionary power, and the State had shown "utter lethargy" throughout the proceedings in both the High Court and the Supreme Court.**

**Limitation Act, 1963; Section 5 — Sufficient Cause vs. Bureaucratic Indifference — Relying on its previous observations in *Amateur Riders Club*, reiterated that "there is a point beyond which even the courts cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference." - noted that despite decades of judicial optimism that governmental promptitude would improve, there has been no conspicuous change, leading to the exhaustion of judicial patience regarding stereotyped explanations for delay. [Relied on *Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay*, 1994 Supp (2) SCC 603; *Collector, Land Acquisition, Anantnag v. Mst Katiji*, (1987) 2 SCC 107; *G. Ramegowda v. Land Acquisition Officer*, (1988) 2 SCC 142; *Postmaster General v. Living Media India Limited*, (2012) 3 SCC 563; Paras 12-20]**

*For Petitioner(s): Ms. Sanjana Saddy, AOR Ms. Shailja Singh, Adv.*

*For Respondent(s): Mr. Nagendra Kasana, AOR Mr. Mahendra Kumar Sahoo, Adv. Mr. A Deb Kumar, Adv. Mrs. A Deepa, Adv. Mrs. Neeta Kasana, Adv. Mrs. Anjana Kasana, Adv. Mr. Binod Ch Sabat, Adv.*

**ORDER**

- 1.** Respondent-Managing Committee of Namatara Girls' High School<sup>1</sup> had approached the State Education Tribunal<sup>2</sup>, Bhubaneswar, Odisha with an application<sup>3</sup> under Section 24B of the Odisha Education Act, 1969 for release of grant-in-aid.
- 2.** By an order dated 30<sup>th</sup> December, 2013, the Tribunal allowed the application by directing the State of Odisha and the Director of Secondary Education, Odisha to release grant-in-aid in favour of the teaching and non-teaching staff of the school in the manner as directed.
- 3.** The order dated 30<sup>th</sup> December, 2013 was carried in appeal<sup>4</sup> by the State of Odisha before the High Court of Orissa at Cuttack<sup>5</sup> on 16<sup>th</sup> October, 2015. The appeal was time-barred. Not only that, the appeal was not accompanied by the certified copy of the

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<sup>1</sup> school

<sup>2</sup> Tribunal

<sup>3</sup> G.I.A. Case No.623 of 2011

<sup>4</sup> FAO No. 582 of 2015

<sup>5</sup> High Court

impugned order. Since presentation of the appeal, for a period of 8 years to be precise, the State of Odisha had not filed the certified copy of the impugned order. By an order dated 26<sup>th</sup> April, 2023, the High Court dismissed the appeal citing failure to file the certified copy of the Tribunal's order as the reason.

**4.** Stung by such order, the State of Odisha woke up from its slumber. It obtained the certified copy of the Tribunal's order dated 30<sup>th</sup> December, 2013 on 13<sup>th</sup> February, 2024. A week later, the State of Odisha filed an application<sup>6</sup> seeking recall of the order dated 26<sup>th</sup> April, 2023. Together with such application was filed an application for condonation of delay<sup>7</sup> seeking condonation of 291 days' delay.

**5.** The application for condonation of delay was taken up for consideration by the High Court on 21<sup>st</sup> February, 2025. Having noted that the certified copy of the impugned order was filed only on 13<sup>th</sup> February, 2024, the High Court correctly observed that the appeal filed on 16<sup>th</sup> October, 2015 was inherently defective and the delay in presenting the appeal is in excess of 11 years. Considering the aforesaid position, the application for condonation of delay was rejected resulting in the application for recall being dismissed as time-barred.

**6.** The order of the High Court dated 21<sup>st</sup> February, 2025 is challenged by the State of Odisha in this special leave petition.

**7.** It is noted that there is a delay of 123 days in filing the special leave petition and a further delay of 96 days in re-filing the same after curing defects. In the application for condonation of delay<sup>8</sup>, the State of Odisha seeks to explain the delay by pleading as follows:

"3. It is submitted that the Petitioner on receipt of order of the Hon'ble High Court vide order dated 26.04.2023 and order dated 21.02.2025 in F.A.O. No. 582 of 2015 and in I.A. No. 126 of 2025 in F.A.O. No. 582 of 2015 the petitioner considered the matter and sent it to the law department opined that it is a fit case for filing the present SLP against the impugned judgements dated 26.04.2023 and order dated 21.02.2025.

4. That the delay in filing the appeal was on account of procedural delay in obtaining approval from the higher authority. The delay caused is not deliberate and intentional."

**8.** Ms. Sanjana Saddy, learned counsel appearing for the State of Odisha, submits that the delay in presenting the special leave petition is not deliberate and having regard to the long line of decisions of this Court advocating a liberal approach when an authority under Article 12 of the Constitution is the petitioner seeking condonation of delay, she urges that the delay be condoned and this Court may direct the High Court to examine the challenge to the order dated 30<sup>th</sup> December, 2013 of the Tribunal on merits, upon revival of the appeal.

**9.** We had, upon hearing Ms. Sanjana, started dictating an order of dismissal of the special leave petition. It was then that she prayed for withdrawal of the special leave petition. We had so recorded. However, when we were about to rise for the day, Ms. Sanjana prayed for recall of the order of dismissal of the special leave petition as withdrawn; she also submitted, on instructions, that the State of Odisha would invite a detailed order with reasons in support of dismissal of the special leave petition.

**10.** We recalled the order dismissing the special leave petition as withdrawn and, instead, dismissed the same as time-barred considering paragraphs 3 and 4 of the

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<sup>6</sup> I.A. No.165 of 2024

<sup>7</sup> I.A. No.126 of 2025

<sup>8</sup> IA No.34867 of 2026

application for condonation of delay, excerpted above, with the observation that reasons would follow.

**11.** We now proceed to assign our reasons.

**12.** No cause, much less sufficient cause, has been shown for exercise of discretion in favour of the State of Odisha. The nature of explanation in the application for condonation of delay is such that with much ado, the proceedings could be closed.

**13.** However, since there is a long line of decisions of this Court propounding the law that the expression ‘sufficient cause’ employed by the legislature in Section 5 of the Limitation Act, 1963 is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice and in view of the submission of Ms. Sanjana, we have considered it appropriate to consider the matter in some depth.

**14.** Almost four decades back, in **Collector, Land Acquisition, Anantnag v. Mst Katiji**<sup>9</sup>, a coordinate Bench noting that the justifiably liberal approach which this Court has been adopting in matters instituted before it is not being followed by the courts lower in the hierarchy, mandated that a justice oriented approach is indeed called for when a ‘State’ seeks condonation of delay as distinguished from ‘a private party’.

**15.** Close on the heels of **Katiji** (supra), Hon’ble Justice M.N. Venkatachaliah speaking for the coordinate Bench in **G. Ramegowda v. Land Acquisition Officer**<sup>10</sup> had referred to **Katiji** (supra) in paragraph 14 and quoted the following passage therefrom:

“When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay ...

It must be grasped that judiciary is respected not on account of its power to legalise injustice on technical grounds but because it is capable of removing injustice and is expected to do so.”

Immediately thereafter, in paragraphs 15 to 17, it was held as under:

**15.** In litigations to which Government is a party there is yet another aspect which, perhaps, cannot be ignored. If appeals brought by Government are lost for such defaults, no person is individually affected; but what, in the ultimate analysis, suffers is public interest. The decisions of Government are collective and institutional decisions and do not share the characteristics of decisions of private individuals.

**16.** The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at crosspurposes with it.

**17.** Therefore, in assessing what, in a particular case, constitutes “sufficient cause” for purposes of Section 5, it might, perhaps, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, these factors which are peculiar to and characteristic of the functioning of the government. Governmental decisions are proverbially slow encumbered, as they are, by a considerable degree of procedural red tape in the process of their making. A certain amount of latitude is, therefore, not impermissible. It is rightly said that those who bear responsibility of Government must have “a little play at the joints”. Due recognition of these limitations on governmental functioning — of course, within reasonable limits — is necessary if the judicial approach is not to be rendered unrealistic. It would, perhaps, be unfair

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<sup>9</sup> (1987) 2 SCC 107

<sup>10</sup> (1988) 2 SCC 142

and unrealistic to put government and private parties on the same footing in all respects in such matters. Implicit in the very nature of governmental functioning is procedural delay incidental to the decision-making process. In the opinion of the High Court, the conduct of the law officers of the Government placed the Government in a predicament and that it was one of those cases where the mala fides of the officers should not be imputed to Government. It relied upon and trusted its law officers. ...

**16. Katiji** (supra) and **Ramegowda** (supra) were consistently followed by this Court until adoption of a different and seemingly strict approach while dealing with applications for condonation of delay during the last decade and a half became discernible starting with the decision in **Postmaster General v. Living Media India Limited**<sup>11</sup>, where a delay of 427 days in filing the relevant special leave petition was not condoned. **University of Delhi v. Union of India**<sup>12</sup> is another decision (of a three Judge Bench of this Court) where delay of 916 days was not condoned. While upholding the decision of the relevant high court under challenge refusing to condone the delay of 5659 days in presentation of an appeal under Section 54 of the Land Acquisition Act, 1894 by the heirs of a deceased landowner, a coordinate Bench in **Pathapati Subba Reddy v. Collector(LA)**<sup>13</sup> very recently reiterated that the law of limitation is founded on public policy, the object is that a legal remedy is put to an end so that no litigation remains pending for an indefinite period. It was also held, departing from the earlier view, that the merits of the case cannot be considered at the stage of considering the application for condonation of delay.

**17.** Indeed, one of us [Dipankar Datta] in **Sheo Raj Singh v. Union of India**<sup>14</sup> authoring the judgment for a coordinate Bench adopted the view taken in **Katiji** (supra), **Ramegowda** (supra) and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was observed that a distinction ought to be drawn between an ‘explanation’ and an ‘excuse’ that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits in appeal over a discretionary order of the high court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation has to be examined.

**18.** However, what perhaps remained unnoticed in any of the decisions post **Katiji** (supra) and **Ramegowda** (supra) adopting a liberal approach is the exasperation and consequent lament expressed by none other than Hon’ble M.N. Venkatachaliah, CJI. in course of authoring a brief order in **Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombay**<sup>15</sup> and admonishing officers of the “revenue” in not acting with promptitude. This order was made within six years of the decision in **Ramegowda** (supra). We can do no better than quoting the same in its entirety hereunder:

1. We have heard Shri S.C. Manchanda, learned senior counsel for the Revenue.
2. This special leave petition filed on November 16, 1993 is delayed by 264 days. For quite some time in the past, this Court has been making observations as to the grave prejudice caused to public interest by appeals brought on behalf of the Government being lost on the point of limitation. Such observations have been made for over a few years in the past. But there seems

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<sup>11</sup> (2012) 3 SCC 563

<sup>12</sup> (2020) 13 SCC 745

<sup>13</sup> (2024) 12 SCC 336

<sup>14</sup> (2023) 10 SCC 531

<sup>15</sup> 1994 Supp (2) SCC 603

to be no conspicuous improvement as is apparent in the present petition which is filed in November 1993. The explanation for the delay, had better be set out in petitioner's own words:

"(g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file. (h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993."

3. This explanation is incapable of furnishing a judicially acceptable ground for condonation of delay. After the earlier observations of this Court made in several cases in the past, we hoped that the matters might improve. There seems to be no visible support for this optimism. There is a point beyond which even the courts cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference. Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to present and prosecute appeals are not individual but are institutional decisions necessarily bogged down by the proverbial red-tape. But there are limits to this also. Even with all this latitude, the explanation offered for the delay in this case merely serves to aggravate the attitude of indifference of the Revenue in protecting its common interests. The affidavit is again one of the stereotyped affidavits making it susceptible to the criticism that the Revenue does not seem to attach any importance to the need for promptitude even where it affects its own interest.

4. The application for condonation of delay is, accordingly, dismissed. The special leave petition is, therefore, dismissed as barred by time.

(emphasis ours)

19. Reading **Ramegowda** (supra) and **Amateur Riders** (supra), one after the other, leaves none in doubt that it did not take much time for this Court to lose hope. It is absolutely clear that the law was laid down in **Ramegowda** (supra), following **Katiji** (supra), with much optimism that matters would improve. Their Lordships, however, found no visible support for such optimism and the Court's patience having been tested to the extreme limit, held that there is a point beyond which even the courts cannot help a litigant even if the litigant labouring under the shackles of bureaucratic indifference is the Government.

20. We have found the State of Odisha to be utterly lethargic, tardy and indolent not only before the High Court but also before this Court. Notwithstanding that its appeal was dismissed as time-barred by the High Court, this Court has been approached by the State of Odisha four months after expiry of the period of limitation.

21. Condonation of delay cannot be claimed as a matter of right. It is entirely the discretion of the Court whether or not to condone delay. Despite all the latitude that is shown to a "State", we are of the clear opinion that the cause sought to be shown here by the State of Odisha is not an explanation but a lame excuse. No case for exercise of discretion has been set up.

22. The applications for condonation of delay in filing the special leave petition and condonation of delay in re-filing the same, thus, stand rejected, with the result that the special leave petition stands dismissed as time-barred.